

PRM12WT

Comment on Mr. Leonard Umina's letter and petition for rulemaking.

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I support Mr. Leonard Umina's letter and petition for rulemaking.

In 2001 the FCC declined the American Radio Relay League's (ARRL) Application for Review which asked the FCC to expand PRB-1 to preempt covenants, conditions and restrictions (CC&Rs) contained in deeds, bylaws of homeowner associations (HOA) or regulations of architectural control committees (ACC). The FCC said, in part, that expansion of PRB-1 was not necessary because the FCC "believe[s] that PRB-1 adequately protects that predominant federal interest from regulations that would frustrate the important purposes of the Amateur Radio Service..." Unfortunately, this has not been the case.

In the 11 years since the FCC's denial, it is abundantly clear that the CC&R, the HOA and the ACC are the most restrictive form of local control that frustrate licensed amateur radio service (ARS) operators from deploying external antennae of a height and size necessary for communications on high frequency (HF) amateur bands. While many cities, towns, boroughs and counties have adopted zoning regulations and permit processes that comply with PRB-1, the majority of CC&R/HOA/ACC communities continue to effectively prohibit all external antennas (except television and wireless under FCC's OTARD rule). And so while an ARS licensed operator may live within a local jurisdiction (city or county) that permits external amateur antennas, if the same operator resides within the boundaries of a CC&R/HOA/ACC community, the CC&R/HOA/ACC effectively vetoes and preempts both the local jurisdiction and FCC's PRB-1.

I believe the pervasive practice of CC&R/HOA/ACC communities of prohibiting external ARS antennae not only frustrates the ARS operators, it frustrates the FCC's objectives and goals. In Part 97.1 it states the ARS is maintained to promote a volunteer service that could be deployed in emergencies and to foster international goodwill. In a large-scale regional disaster, short-range VHF and UHF communications may not have sufficient range and the use of HF frequencies may be necessary to establish medium- to long-range links. Therefore, prohibiting HF antennae precludes the emergency service the FCC sought to establish in Part 97.1. By the same token, international goodwill also requires HF, as direct links by VHF and UHF overseas are virtually impossible.

The fact that so many local jurisdictions have adopted zoning or planning rules to accomodate PRB-1 makes it practical for the FCC to expand PRB-1's preemption to CC&R/HOA/ACC's. Once such a preemption is made, then the local jurisdiction has the tools and the means to issue a permit that ensures the external antenna is safe and appropriate for the community.

As Mr. Umina shows in his letter, the size and number of CC&R/HOA/ACC communities are so pervasive across the nation that a large number of licensed ARS operators are restricted from effective HF communications. Since virtually all new housing tracts are encumbered by anti-ARS CC&R's, the problem is growing and will get worse with time. It is time for the FCC to act and extend PRB-1 to preempt CC&R/HOA/ACC unreasonable antenna restrictions so that the ARS as defined by Part 97 is not compromised.

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